

Section 3

Responses to Federal Agency Comments

This section contains the responses to comments submitted by federal agencies.

U.S. Department of the Army, Tooele Army Depot

Comment Number FA-1-1

Response It is noted that the Tooele Army Depot and Hill Air Force Base rely on I-15 for transporting materials related to national defense on a daily basis, and that I-15 is part of the Strategic Highway Network. Additional information provided by the commenter has been added to Section 1.2.4, *Needs Addressed by Legacy Parkway Project*, of the Final Supplemental EIS.

U.S. Department of the Interior, Fish and Wildlife Service

Comment Number FA-2-1

Response A table summarizing direct, indirect, and contribution to cumulative impacts on wildlife associated with the proposed build alternatives has been added to the *Summary* of the Final Supplemental EIS. In addition, a series of summary tables, Tables ES-1 through ES-4, has been added to the wildlife technical memorandum.

Comment Number FA-2-2

Response A discussion of the noise and cumulative impact data presented in the wildlife technical memorandum is presented in Section 4.13.3.10, *Noise Disturbance*, and Section 4.13.3.13, *Cumulative Impacts*, of the Final Supplemental EIS.

Comment Number FA-2-3

Response Table 4.12-6 of the Final Supplemental EIS provides a comparison of the wetland acreage and functional capacity units that would be lost under Alternative E relative to the wetland acreage and functions that would be gained at the Legacy Nature Preserve. Appendix E, *Analysis of the Adequacy of the Wetland and Wildlife Mitigation*, of the Final Supplemental EIS provides an accounting of impacts relative to mitigation in a variety of formats, including functional capacity units, vegetation cover type, and wildlife habitat.

In summary, the mitigation-to-impact ratio for wetland acreage under Alternative E (Final Supplemental EIS Preferred Alternative) is 6.8:1, that is, the Legacy Nature

Preserve would provide 6.8 acres of wetland habitat for each acre of wetland habitat directly affected under Alternative E. By wetland class, the ratio is 2.8:1 for depressional wetlands, 7.4:1 for groundwater slope wetlands, and 12.6:1 for lacustrine fringe wetlands.

Regarding wetland functions, there would be a net gain in all five wetland functions within the lacustrine fringe wetland class, a net loss in functions 1, 2, and 3 in the depressional wetland class (net gain in functions 4 and 5), and a net loss in functions 1 and 2 in the groundwater slope wetland class (net gain in functions 3, 4, and 5). In summary, creation of 12 acres of groundwater slope wetlands would result in a net gain in all wetland functions in that wetland class (see Table 4.12-6), but some wetland functions would be lost in the depressional wetland class (i.e., those functions mitigated at less than a 1:1 mitigation-to-impact ratio), some of which would be compensated by mitigating at higher ratios in the lacustrine fringe wetland class.

A complete discussion of the implications of out-of-kind mitigation is provided in Section 4.12.3.4, *Mitigation Measures*, of the Final Supplemental EIS. That section also includes a discussion of how the Legacy Nature Preserve would be affected by changes in the level of Great Salt Lake.

Comment Number FA-2-4

Response A formal mitigation plan has been included as Appendix F, *Draft Wetland Mitigation Plan*, in the Final Supplemental EIS. It should be noted, however, that this plan is still in review by UDOT's collaborative Legacy Nature Preserve design team, which includes representatives from local jurisdictions, agencies, and special-interest groups. Any refinements to the formal mitigation plan presented in the Final Supplemental EIS as a result of review by the collaborative design team will be subject to approval by the Corps as part of the Section 404 permit application process.

Comment Number FA-2-5

Response The regional study area was used to evaluate all project-related effects on wildlife beyond the project study area. Many migratory birds that use the project study area move seasonally along the Wasatch Front, stopping at other wetland areas from Utah Lake to the Bear River National Wildlife Refuge. Utah Lake was included in the regional study area because approximately 156 migratory bird species found around Utah Lake also use habitats around Great Salt Lake (Utah Division of Wildlife Resources 1982; wildlife technical memorandum Appendix A-1), and many of their populations are likely connected by regular movement between the two areas. This information is included in Section 4.13.1.2, *Regional Study Area*, of the Final Supplemental EIS.

Comment Number FA-2-6

Response Text has been added to Section 4.12.3.2, *Indirect Impacts*, of the Final Supplemental EIS to illustrate the percentage of wetland habitat that would be indirectly affected under each build alternative. This provides a relative context for assessing the indirect impacts of each build alternative. Table 4.13-5 in the Supplemental EIS illustrates the potential impact of future development on wetland/wildlife habitat in the study area, both with and without the proposed build alternatives. As the table illustrates, the proposed Legacy Parkway is not the only

potential source of future loss of wetland and upland habitats. The column in the table titled “Build-Out-Developed” represents impacts that could occur on wetland/wildlife habitat if none of the proposed build alternatives are constructed (i.e., impacts that would occur in the future under a no-build scenario). The columns titled “Alternatives A/B/C or E” and “Build Out” represent impacts that could occur on wetland/wildlife habitat if a proposed build alternative were implemented.

Comment Number FA-2-7

Response The *Executive Summary* of the wildlife technical memorandum has been expanded to provide a clearer summary of the character and extent of direct, indirect, and cumulative impacts, both with and without implementation of the proposed action.

Comment Number FA-2-8

Response The Supplemental EIS acknowledges the potential for indirect impacts on wildlife from implementation of the proposed action. As stated in Section 4.13.3.14, *Mitigation Measures*, of the Supplemental EIS, monitoring noise and conducting surveys for representative bird species, prior to and during construction, to document noise impacts would constitute appropriate mitigation for indirect impacts, in addition to the habitat that will be preserved and improved as part of the Legacy Nature Preserve. After additional consultation and coordination, the wildlife agencies requested assistance from UDOT wildlife specialists to develop and implement a postconstruction monitoring plan that meets both the lead agencies’ NEPA responsibilities and the wildlife agencies’ objectives. This commitment is included in Appendix H, *Statement of Commitment*, of the Final Supplemental EIS. An analysis of the effectiveness of the proposed mitigation is presented in Appendix E, *Analysis of the Adequacy of the Wetland and Wildlife Mitigation*, of the Final Supplemental EIS.

Comment Number FA-2-9

Response Information on the direct, indirect, and cumulative impacts presented in the *Executive Summary* of the wildlife technical memorandum has been included in Section 4.13, *Wildlife*, of the Final Supplemental EIS. The mitigation plan has been added to the Final Supplemental EIS as Appendix F, *Draft Wetland Mitigation Plan*.

U.S. Environmental Protection Agency

Comment Number FA-3-1

Response Section 4.12.3, *Environmental Consequences and Mitigation Measures*, of the Final Supplemental EIS provides additional detail regarding how the Legacy Nature Preserve compensates for the loss of wetland habitat associated with implementation of the project applicant’s preferred alternative, Alternative E. In addition, text has been added to the Introduction; Section 2.2.4, *Conclusions*; and the subsection, *Other Alternatives Screening Criteria*, in Section 3.2 of the Final Supplemental EIS to provide clarification on the federal lead agencies’ definitions of practicability and, in particular, logistics. For the purposes of the Supplemental EIS, the Corps defines *logistics* as any of the details associated with implementing a project alternative; these details could include construction impacts, relocations,

and community impacts/neighborhood changes. The Corps may consider a project alternative impracticable due to logistical considerations based on an assessment of the above considerations.

Comment Number FA-3-2

Response

Tables 4.12-6 and 4.12-7 have been added to Section 4.12.3.4, *Mitigation Measures*, of the Final Supplemental EIS to better illustrate wetland acreage and functions that would be lost under each of the proposed build alternatives, and how the Legacy Nature Preserve would mitigate the loss of these functions. In addition, Appendix E, *Analysis of the Adequacy of the Wetland and Wildlife Mitigation*, of the Final Supplemental EIS provides an accounting of impacts relative to mitigation in a variety of formats, including functional capacity units, vegetation cover type, and wildlife habitat.

The discussion in Section 4.12.3.4 explains that the ratio of acres of wetlands preserved in the Legacy Nature Preserve to acres of wetlands lost as a result of implementation of Alternative E would be greater than 1:1. There would be a net gain in all five wetland functions within the lacustrine fringe wetland class, a net loss in functions 1, 2, and 3 in the depressional wetland class (net gain in functions 4 and 5), and a net loss in functions 1 and 2 in the groundwater slope wetland class (net gain in functions 3, 4, and 5). In summary, creation of 12 acres of groundwater slope wetlands would result in a net gain in all wetland functions in that wetland class (see Table 4.12-6), but some wetland functions would be lost in the depressional wetland class (i.e., those functions mitigated at less than a 1:1 mitigation-to-impact ratio), some of which would be compensated by mitigating at higher ratios in the lacustrine fringe wetland class.

A complete discussion of the implications of out-of-kind mitigation is provided in Section 4.12.3.4, *Mitigation Measures*, of the Final Supplemental EIS. That section also includes a discussion of how the Legacy Nature Preserve would be affected by changes in the level of Great Salt Lake.

Comment Number FA-3-3

Response

More detailed information has been added to Chapters 2 and 3 of the Final Supplemental EIS regarding the rationale for determining the unreasonableness and impracticability of any of the alternatives within the Denver and Rio Grande Railroad (D&RG) Regional Alignment corridor. See Sections 2.2.4, *Conclusions*, 3.2.2, *Results of Additional Alternatives Evaluation*, and 3.2.3, *Summary of Alternatives Eliminated* of the Final Supplemental EIS.

Comment Number FA-3-4

Response

Additional information has been added to the Foreword/Introduction, Chapter 2 (Section 2.2.4, *Conclusions*), and Chapter 3 (Sections 3.2.2, *Results of Additional Alternatives Evaluation*, and 3.2.3, *Summary of Alternatives Eliminated*) of the Final Supplemental EIS to clarify the CWA Section 404 criteria used (in addition to the NEPA criteria) in evaluating the practicability and reasonableness of the D&RG alternatives. This information includes discussion of the evaluation of cost, existing technology, and logistics in the evaluation of practicability under CWA Section 404(b)(1) guidelines. A more detailed analysis of these alternatives under the Section 404(b)(1) guidelines is included in the Corp's Section 404(b)(1) Alternatives Analysis.

Comment Number FA-3-5

Response It is agreed that there are feasible alternatives (Alternatives A and E) that are less environmentally damaging than Alternatives B and C. Neither Alternative B nor C is the Preferred Alternative.

Comment Number FA-3-6

Response Text has been added to the Foreword/Introduction; Section 2.2.4, *Conclusions*; and the subsection, *Other Alternatives Screening Criteria*, in Section 3.2 of the Final Supplemental EIS to provide clarification on the Corps' determination of practicability, and specifically, on how the Corps defines and considers logistics in the Supplemental EIS. Logistics has been defined to include any of the details associated with implementing a proposed project alternative, including construction impacts, relocations, and community impacts/neighborhood changes. The text added to Section 2.2 provides additional clarification on why the D&RG regional alignment was considered impracticable by the Corps—due, in part, to logistical considerations.

In addition, a new table, Table 4.12-6, has been added to Section 4.12.3, *Environmental Consequences and Mitigation Measures*, that illustrates the adequacy of the proposed Legacy Nature Preserve to offset wetland impacts associated with construction of Alternative E, the project applicant's preferred alternative.

Comment Number FA-3-7

Response Coordination with the EPA on the 14-item task list agreed to by the Corps, FHWA, and EPA on February 9, 2005, has been completed. Changes to the Final Supplemental EIS have been incorporated as appropriate; a record of those decisions is included in the administrative record for the Legacy Parkway project.